City of Lafayette Staff Report

For:	City Council
By:	Niroop K. Srivatsa
Date Written:	November 3, 2008
Meeting Date:	November 10, 2008
Subject:	**Palos Colorados Precise Development Plan: Compliance with the conditions in the Settlement Agreement relating to visual impacts.**

Purpose

To provide comments to the Moraga Planning Commission on the project's compliance with the settlement agreement conditions relating to visual impacts.

Background

In 2007, when the General Development Plan for the Palos Colorados project was under review, Lafayette entered into a settlement agreement with the Town of Moraga and Richfield Development Corporation. Exhibit C of that agreement listed the following conditions relating to the visual impacts of the project:

> GDP.2. The maximum building height for General Development Plan Lots 13, 14, 15 and 16 shall be 19 feet provided that the elevation of the lots is between 706 and 712 feet. If the elevation of the lots is lowered then the building height can increase equal to the lowering of the lots. The maximum building height for General Development plan Lot 83 shall be 19 feet provided that the elevation of the lot is 780 feet. If the elevation of the lot is lowered, then the building height can increase equal to the lowering of the lot. The maximum building height for General Development Plan Lot 106 shall be 19 feet provided that the elevation of the lot is 748 feet. If the elevation of the lot is lowered, then the building height can increase equal to the lowering of the lot. At the design review stage, story poles shall be installed by the applicant on Lot 106 to evaluate visual impact from the Lafayette BART station. If the proposed residence is visible from the Lafayette BART station, modifications to the design shall be required to fully mitigate the visual impact or screening landscaping shall be installed to eliminate the impact.
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> Condition 3 for Conditional Use Permits for Lots 22, 23, F and G which establish the Site Development Standards for the construction of single-family residences on Lots 22, 23, F and G in the Palos Colorados subdivision: The following Site Development Standards shall be adhered to: Maximum Building Height: 19 feet (one story) unless it can be demonstrated to the satisfaction of the Town of Moraga that a higher building height (up to a maximum of 25 feet) is not visible from the Lafayette BART station

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The General Development Plan (GDP) was subsequently approved and contained the following conditions of approval:

> C.VTM.37 The Precise Development Plan Submittals shall demonstrate that the rooflines of homes on Lots 22 through 27, E, F, G and 29 do not protrude above the elevations of the existing skyline behind them as viewed from the platform of the Lafayette BART Station. The detailed Precise Development Plan and guidelines provide the means by which to eliminate potential visual impacts of the proposed residential structures as viewed from the platform of the Lafayette BART Station. In order to meet this requirement, each lot shall have a home elevation limit of one story and each home shall not exceed 19 feet or 25 feet in height from the approved subdivision lot grade to the highest point of the roofline, excepting chimneys in accordance with the Conditional Use Permit.
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> C.GDP.2-R-VTM. Prior to approval of the Precise Development Plan (PDP) and subsequent design review applications, the Applicant shall demonstrate compliance with the limitations on building height set forth in this condition. The maximum building height for General Development Plan Lots 13, 14, 15 and 16 shall be 19 feet provided that the elevation of the lots is between 706 and 712 feet. If the elevation of the lots is lowered, then the building height can increase equal to the lowering of the lots. The maximum building height for General Development Plan lot 83 shall be 19 feet provided that the elevation of the lot is 780 feet. If the elevation of the lot is lowered, then the building height can increase equal to the lowering of the lot. The maximum building height for General Development Plan lot 106 shall be 19 feet provided that the elevation of the lot is 748 feet. If the elevation of the lot is lowered, then the building height can increase equal to the lowering of the lot. At the design review stage, story poles shall be installed by the Applicant on lot 106 to evaluate visual impact from the Lafayette BART station. If the proposed residence is visible from the Lafayette BART station, modifications to the design shall be required to fully mitigate the visual impact or screening landscaping shall be installed to eliminate the impact. The maximum building height for lots 22, 23, F and G shall be 19 feet (one story) unless it can be demonstrated that a higher building (up to a maximum of 25 feet) is not visible from the Lafayette BART Station Platform.

In 2008, Richfield Investment Corporation, developers of the Palos Colorados project, submitted an application for Precise Development Plan approval to the Town of Moraga. To determine whether the plans met the conditions in the settlement agreement and GDP, Lafayette retained Bob Staehle, the visual consultant hired in 2006 during the settlement agreement negotiations to analyze the recent submittals. In September 2008, the City Council directed staff to send a letter to Moraga commenting on the Precise Development Plan (PDP) and the visual simulations (letter attached). The letter addressed two sets of conditions; those in the settlement agreement (SA) and those from the General Development Plan (GDP).

Last month, Bob Staehle and I met with Debi Chung of Richfield, her visual consultant and Lori Salamack of Moraga to review Lafayette's letter. Regarding our comments on the GDP conditions, Lori indicated that since these conditions were not in the settlement agreement, it would be up to the Moraga Planning Commission to determine whether they had been fulfilled. Richfield agreed to storey pole the proposed house on Lot 106. The storey poles were installed on October 27th and were available for viewing until October 30th. Richfield also submitted a landscape mitigation plan intended to eliminate views of the house from the Lafayette BART station.

Analysis

Pad elevations

The following table lists the pad elevations for the lots cited in the settlement agreement (SA) and the pad elevations proposed in the Precise Development Plan (PDP):

Lot	Pad elevation (SA)	Pad elevation (PDP)	Building height
13	between 706 and 712 feet	706 feet	19 feet
14	between 706 and 712 feet	708 feet	19 feet
15	between 706 and 712 feet	710 feet	19 feet
16	between 706 and 712 feet	712 feet	19 feet
83	780 feet	768 feet	19 feet
106	748 feet	748 feet	19 feet

All lots are at or below the pad elevations in the Condition GDP.2 of the settlement agreement.

Lot 106

The storey poles demonstrate that the proposed home on Lot 106 with a maximum height of 19' will be clearly visible from the BART station. This lot was also cited in 2007 as being the most visible lot. The condition in the settlement agreement states that if the proposed residence is visible from the Lafayette BART station, "*modifications to the design shall be required to fully mitigate the visual impact or screening landscaping shall be installed to eliminate the impact.*"

The only way to fully mitigate the visual impact of a house on Lot 106 immediately after its completion would be to relocate it to a less visible portion of the project. Absent that, the house will be readily visible for a number of years until the trees have attained maturity. It is the opinion of the City's visual consultant that glimpses of the house will be seen from the BART platform even after these trees are fully grown. His other comment is that owners of the lots visible from the BART platform could in the future add improvements (retaining walls, pools, accessory structures) which would be visible from the BART platform. To ensure that the conditions in the settlement agreement are fully complied with, staff recommends that the following conditions be imposed on the Precise Development Plan:

1. The landscape mitigation plan (attached) and its exhibits shall be incorporated into the Precise Development Plan.

2. All trees shown on the landscape mitigation plan shall be planted in conjunction with the subdivision improvements and before the issuance of the first building permit for the project.

3. Landscape maintenance agreements shall be recorded for the lots and common areas that contain the trees shown in the landscape mitigation plan.

4. The settlement agreement conditions relating to visibility, pad elevations and heights shall be recorded against the lots cited in the settlement agreement. No improvements that would be visible from the BART platform shall be allowed on these lots.

GDP conditions

Staff recognizes that determination of compliance with the GDP conditions rests with the Moraga Planning Commission. But given the fact that houses on nine of the lots (2007 Lot #s 22, 23, F, 24, 25, 26, 27, 29, E) will break the horizon and not meet the condition that "*the rooflines of homes do not protrude above the elevations of the existing skyline behind them as viewed from the platform of the Lafayette BART Station*", we recommend that Lafayette's concerns be conveyed once again to the Moraga Planning Commission along with a recommendation that these lots be graded to a lower elevation to prevent the rooflines from breaking the horizon.

Recommendation

Authorize staff to forward the comments to the Moraga Planning Commission.

Attachments

1. September 2008 letter to the Moraga Planning Commission
2. Landscape mitigation plan and photo simulations submitted by Richfield Development Corporation
3. October 28th photos taken from the BART station

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CITY COUNCIL
Mike Anderson, Mayor
Don Tatzin, Vice Mayor
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Carl Anduri, Council Member
Carol Federighi, Council Member

September 10, 2008

Moraga Planning Commission
Attn: Lori Salamack
Town of Moraga Planning Department
329 Rheem Boulevard, Suite 2
Moraga, CA 94556

Re: Palos Colorados Visual Simulations

Dear Chair Hays and members of the Moraga Planning Commission:

On behalf of the City of Lafayette, I would like to thank Debi Chung of Richfield and her team for providing us with the data to conduct our evaluation of the proposed homes in Palos Colorados.

On Monday, September 8th, the Lafayette City Council evaluated the photo simulations prepared by Richfield Investment Corporation as part of its Precise Development Plan (PDP) submittal, as well as a report from Lafayette's visual consultant Robert Staehle (exhibits attached). This evaluation was conducted to determine whether the PDP met the conditions of the 2007 Settlement Agreement and the General Development Plan (GDP). The Council directed staff to forward its comments to the Moraga Planning Commission for its consideration.

2007 Settlement Agreement

In 2007, when the General Development Plan for Palos Colorados was under review, Lafayette entered into a Settlement Agreement with the Town of Moraga and Richfield Investment. Exhibit C of that agreement listed the following conditions relating to the visual impacts of the project:

> GDP.2. The maximum building height for General Development Plan Lots 13, 14, 15 and 16 shall be 19 feet provided that the elevation of the lots is between 706 and 712 feet. If the elevation of the lots is lowered, then the building height can increase equal to the lowering of the lots. The maximum building height for General Development plan Lot 83 shall be 19 feet provided that the elevation of the lot is 780 feet. If the elevation of the lot is lowered, then the building height can increase equal to the lowering of the lot. The maximum building height for General Development Plan Lot 106 shall be 19 feet provided that the elevation of the lot is 748 feet. If the elevation of the lot is lowered, then the building height can increase equal to the lowering of the lot. At the design review stage, story poles shall be installed by the applicant on Lot 106 to evaluate visual impact from the Lafayette BART station. If the proposed residence is visible from the Lafayette BART station, modifications to

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the design shall be required to fully mitigate the visual impact or screening landscaping shall be installed to eliminate the impact.

Condition 3 for Conditional Use Permits for Lots 22, 23, F and G which establish the Site Development Standards for the construction of single-family residences on Lots 22, 23, F and G in the Palos Colorados subdivision: The following Site Development Standards shall be adhered to: Maximum Building Height: 19 feet (one story) unless it can be demonstrated to the satisfaction of the Town of Moraga that a higher building height (up to a maximum of 25 feet) is not visible from the Lafayette BART station

Lafayette's Comments

Lafayette's visual consultant has evaluated the photo simulations for these lots and we have determined that:

1. Lots 13[1], 14, 15, 16 and 83 comply with the Settlement Agreement.

2. The proposed house on Lot 106 will be fully visible from the BART station as it is not obstructed by either foreground or background vegetation[2]. It is recommended that the lot be relocated to a less visible location. If that is not possible, storey poles shall be installed at design review stage to evaluate and fully mitigate the visual impacts from the Lafayette BART station. We request that this become a condition of approval of the Precise Development Plan.

3. Lots 22, 23 and F comply with the Settlement Agreement but not with the GDP (see below).

4. Lot G has been relocated in the PDP.

General Development Plan

The General Development Plan (GDP) contains the following conditions of approval relating to visibility from the BART station:

C.VTM.37 The Precise Development Plan Submittals shall demonstrate that the rooflines of homes on Lots 22 through 27, E, F, G and 29 do not protrude above the elevations of the existing skyline behind them as viewed from the platform of the Lafayette BART Station. The detailed Precise Development Plan and guidelines provide the means by which to eliminate potential visual impacts of the proposed

[1] Lot numbers are from the GDP

[2] Foreground vegetation: the green line in the attached exhibits indicates the foreground elements that obstruct the view of some of the homes. Background vegetation: the magenta line indicates vegetation much closer to the homes.

residential structures as viewed from the platform of the Lafayette BART Station. In order to meet this requirement, each lot shall have a home elevation limit of one story and each home shall not exceed 19 feet or 25 feet in height from the approved subdivision lot grade to the highest point of the roofline, excepting chimneys in accordance with the Conditional Use Permit.

C.GDP.2-R-VTM. Prior to approval of the Precise Development Plan (PDP) and subsequent design review applications, the Applicant shall demonstrate compliance with the limitations on building height set forth in this condition. The maximum building height for General Development Plan Lots 13, 14, 15 and 16 shall be 19 feet provided that the elevation of the lots is between 706 and 712 feet. If the elevation of the lots is lowered, then the building height can increase equal to the lowering of the lots. The maximum building height for General Development Plan Lot 83 shall be 19 feet provided that the elevation of the lot is 780 feet. If the elevation of the lot is lowered, then the building height can increase equal to the lowering of the lot. The maximum building height for General Development Plan Lot 106 shall be 19 feet provided that the elevation of the lot is 748 feet. If the elevation of the lot is lowered, then the building height can increase equal to the lowering of the lot. At the design review stage, story poles shall be installed by the Applicant on Lot 106 to evaluate visual impact from the Lafayette BART station. If the proposed residence is visible from the Lafayette BART station, modifications to the design shall be required to fully mitigate the visual impact or screening landscaping shall be installed to eliminate the impact. The maximum building height for Lots 22, 23, F and G shall be 19 feet (one story) unless it can be demonstrated that a higher building (up to a maximum of 25 feet) is not visible from the Lafayette BART Station Platform.

Lafayette's Comments

1. Condition C.VTM.37 states that PDP submittals shall demonstrate that the *rooflines of homes on Lots 22 through 27, E, F, G and 29 do not protrude above the elevations of the existing skyline behind them* as viewed from the platform of the Lafayette BART Station (italics added for emphasis).With the exception of Lot G which has been relocated, the proposed houses on all other lots *break the horizon.* This is inconsistent with Condition C.VTM.37.

   The applicant's consultants have stated that this is inconsequential because the background and foreground vegetation will screen these houses from view. While this may be the case, we believe that as proposed, the Precise Development Plan does not meet the condition of approval of the General Development Plan which specifically requires that the *rooflines not protrude above the horizon.* Vegetation either foreground, background or planted at the time of construction is not a means that will insure 100% screening of the units. Vegetation by its nature can have transparency and can allow viewing through it, thus potentially making the units visible. Additionally vegetation can die, become

diseased or simply be removed, thus not provide permanent visual protection. We recommend that the lots be graded down to a lower elevation to prevent the rooflines from breaking the horizon.

Finally, it is our understanding that in order to develop the photo simulations for the PDP application, Richfield's engineers installed story poles on these lots earlier this year. It is regrettable that Lafayette was not informed when the story poles were installed. It would have been beneficial to both Moraga and Lafayette to have had the opportunity to use the story poles to assess the visual impacts of the proposed homes from the Lafayette BART station.

Once again, on behalf of the City of Lafayette and the Lafayette City Council, I thank you for giving us the opportunity to review this application and appreciate your attention to our comments.

Sincerely,

Niroop K. Srivatsa
Planning and Building Services Manager

Attachment: Visual assessment by Robert Staehle